

***APPENDIX A
UNANTICIPATED DISCOVERIES PLAN***

***PROCEDURES GUIDING THE DISCOVERY OF UNANTICIPATED HISTORIC
PROPERTIES AND HUMAN REMAINS:
POST-REVIEW DISCOVERIES (36 CFR 800.13)***

Bayside Community Sewer Project

Warwick, Rhode Island

Prepared for

WARWICK SEWER AUTHORITY

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INTRODUCTION

The procedures guiding the unanticipated discovery of cultural resources and human remains detailed herein (“Procedures”) were developed on behalf of the Warwick Sewer Authority (WSA) and in consultation with the State Historic Preservation Officer at the Rhode Island Historical Preservation & Heritage Commission (SHPO). These Procedures detail the approach that WSA will use to address unanticipated discoveries of archaeological resources during construction activities within the Bayside Community Sewer Project (Project) area of potential effect (APE)¹.

The purpose of archaeological investigations during the planning of the municipal sewerage project (Project) is to determine the presence or absence of historic properties within a project area. These archaeological investigations are conducted in accordance with standards set forth in the Section 106 of the National Historic Preservation Act of 1966 (54 U.S.C. 306108), as amended (1976, 1980, 1992, 1999, 2014), and implementing regulations of the Advisory Council on Historic Preservation (ACHP) (36 CFR 800), specifically, those procedures regarding “post-review discoveries” as outlined in 36 CFR 800.13. All work is undertaken pursuant to the *Secretary of the Interior Standards for Archaeology and Historic Preservation* (48 Federal Regulations 44716-42 [1983]) and the applicable laws and regulations pertaining to the cultural resources and human remains of Rhode Island.

These Procedures have been developed in consultation with the SHPO and will be followed in the event any archaeological resources and/or human remains are encountered during construction of the Bayside Community Sewer Project. The stipulations of the Procedures as set forth below are in accordance with the current standards and guidelines elaborated in the following standards/guidelines and laws/regulations:

Standards/Guidelines and Laws/Regulations for Unanticipated Historic Properties and Human Remains

Federal

- Section 106 of the National Historic Preservation Act of 1966, as amended (54 U.S.C. 306108);
- Secretary of the Interior’s Standards for Archeology and Historic Preservation (48 CFR 44716-42);
- Advisory Council on Historic Preservation (ACHP): *Policy Statement Regarding Treatment of Burial Sites, Human Remains, and Funerary Objects*, Advisory Council February 23, 2007); and

Rhode Island

- Rhode Island SHPO: *Performance Standards and Guidelines for Archaeological Projects (Standards for Archaeological Survey)* (2015); and

¹ In these Procedures, when the term “WSA” is used, the term may also refer to WSA acting through its contractors or consultants.

- Rhode Island SHPO: *Rules and Regulations Pertaining to Registration and Protection of Historic Cemeteries* (2012); and
- Rhode Island General Laws, Title 23, Chapter 18, Section 11(2)(c) (Rhode Island Cemeteries Act); and
- Rhode Island General Laws, Title 23, Chapter 18, Section 13 (Rhode Island Cemeteries Act).

Consultation with Consulting Parties and Indian Tribes

As part of the Bayside Community Sewer Project, WSA and the U.S. Environmental Protection Agency (EPA) have initiated contact with the Rhode Island SHPO, and the Narragansett Indian Tribe, represented by the Narragansett Indian Tribal Historic Preservation Officer (NITHPO) and his designated representatives. All contact information for the SHPO, consulting parties, and the NITHPO is included at the end of this document. In the event any archaeological resources and/or human remains are encountered during construction of the Bayside Community Sewer Project, WSA (or its contractor) and WSA's Qualified Professional Archaeologist (Archaeologist) will contact the relevant parties.

Unanticipated Archaeological Discovery Protocol

Cultural Resources Training

The identification of archaeological resources requires basic training in order to recognize potential sites. WSA requires that its employees and contractors have a basic understanding of the nature of cultural resources. As a result, all WSA inspectors and construction contractor personnel will be given basic training in cultural resource site recognition. The Procedures will be included in all relevant construction contractor documents.

The purpose of this training will be to review WSA's commitments regarding cultural resources compliance and to provide an overview of the general cultural history of the project site, so that both WSA and construction personnel will be aware of the kinds of archaeological resources that may be encountered in the field. In addition, the training program will emphasize the exact procedures to be followed, as outlined in these Procedures, regarding actions to be taken and notification required in the event of an archaeological resource discovery, such as a discovery of human remains, during construction.

The training will be designed to ensure that WSA personnel and construction contractors understand the extent of the archaeological survey program that has been performed for the Bayside Community Sewer Project and are fully aware of the distinction between sites that have been located and "cleared" under the cultural resource program (i.e., determined to be non-significant after different levels of investigation or sites that have already undergone data recovery) and new discoveries during the construction process.

Notification Procedures

WSA is committed to the protection and preservation of cultural resources, in accordance with federal and state legislation. WSA recognizes that – despite the intensive cultural resource investigations that are typically performed prior to project construction – it is nonetheless possible that previously unknown cultural resource sites could be discovered during the project construction process, particularly during excavation activities. WSA recognizes the requirement for strict compliance with federal and state regulations and guidelines regarding the treatment of human remains, if any are discovered. The following details the plan that will be followed in the event that new cultural resource sites or human remains are discovered during the construction process.

The protocol to follow in the event of an unanticipated discovery contains the following steps:

- The Contractor will immediately notify the WSA Executive Director of an unanticipated discovery.
- The Executive Director will direct a *Stop Work* order to the Contractor's Site Foreman to flag or fence off the archaeological discovery location and direct the Contractor to take measures to ensure site security. Any discovery made on a weekend or overnight hours will be protected until all appropriate parties are notified of the discovery. The Contractor will not restart work in the area of the find until the Executive Director has granted clearance.
- The Contractor will indicate the location and date of the discovery on the project plans and will notify the Archaeologist, who will undertake a site visit or otherwise coordinate an on-site archaeological consultation.
- The Archaeologist will conduct a preliminary assessment of the find to determine if it is a potentially significant archaeological site.
- If the find is determined by the Archaeologist to not be a potentially significant archaeological site, the Executive Director will notify the Contractor's Work Foreman to resume work.
- If the Archaeologist determines the find is a potentially significant archaeological site, WSA will immediately notify EPA and the SHPO of the find; notifications will be made by WSA within 4 hours.
- WSA will direct the Archaeologist to begin a more detailed assessment of the find's significance and the potential project effects. The Archaeologist will dispatch an archaeological team to the site to determine the nature and extent of the archaeological resources; WSA and the Archaeologist will ensure that the team has full access to the required site area and be accommodated by the Contractor to complete this investigation in the most expeditious manner possible.
- The Archaeologist will notify WSA and EPA of the team's findings and recommendations, whether the find is assessed not to be significant and request approval for construction to proceed, or describe a proposed scope of work for evaluating the significance of the find and evaluating project effects.

- The Archaeologist will convey this information to the SHPO, NITHPO and relevant consulting parties; at the discretion of the WSA and the SHPO, a meeting may be held to discuss options and recommendations.
- If the resource is determined to be a significant archaeological resource and it is threatened by further project development, the Archaeologist, at the direction of WSA and in consultation with the, EPA, SHPO, NITHPO, and relevant consulting parties, will develop a site mitigation plan.
- Upon direction by EPA, the SHPO, and WSA, the Archaeologist will implement the archaeological mitigation plan.
- A meeting or site visit may be held with EPA, WSA, SHPO, NITHPO, Archaeologist, and other appropriate parties once the field investigation for site mitigation has been completed to review the work accomplished.
- Duration of any work stoppages will be contingent upon the significance of the identified archaeological resource(s) and consultation with EPA, WSA, the SHPO, NITHPO and the Archaeologist, and other appropriate parties to determine the appropriate measures to avoid, minimize, or mitigate any adverse effects to the site.

Unanticipated Discovery of Human Remains Protocol

This protocol is specifically designed for circumstances where human remains are encountered during the construction of the Bayside Community Sewer Project.

WSA and its contractors will treat any human remains encountered during the Bayside Community Sewer Project in a manner guided by the policy statement adopted by the ACHP: see *Policy Statement Regarding Treatment of Burial Sites, Human Remains, and Funerary Objects*, Advisory Council February 23, 2007), and by the relevant state laws and guidelines. The ACHP policy statement recommends that, when burial sites, human remains, or funerary objects will be or are likely to be encountered in the course of Section 106 review, a federal agency should adhere to the following principles:

Principle 1: Participants in the Section 106 process should treat all burial sites, human remains, and funerary objects with dignity and respect.

Principle 2: Only through consultation, which is the early and meaningful exchange of information, can a federal agency make an informed and defensible decision about the treatment of burial sites, human remains, and funerary objects.

Principle 3: Native Americans are descendants of original occupants of this country. Accordingly, in making decisions, federal agencies should be informed by and utilize the special expertise of Indian tribes and Native Hawaiian organizations in the documentation and treatment of their ancestors.

Principle 4: Burial sites, human remains, and funerary objects should not be knowingly disturbed unless absolutely necessary, and only after the federal agency has consulted and fully considered avoidance of impact and whether it is feasible to preserve them in place.

Principle 5: When human remains or funerary objects must be relocated, they should be removed carefully, respectfully, and in a manner developed in consultation.

Principle 6: The federal agency is ultimately responsible for making decisions regarding avoidance of impact to or treatment of burial sites, human remains, and funerary objects. In reaching its decisions, the federal agency must comply with applicable federal, tribal, state, or local laws.

Principle 7: Through consultation, federal agencies should develop and implement plans for the treatment of burial sites, human remains, and funerary objects that may be encountered.

Principle 8: In cases where the disposition of human remains and funerary objects is not legally prescribed, federal agencies should proceed following a hierarchy that begins with the rights of lineal descendants, and if none, then the descendant community, which may include Indian tribes and Native Hawaiian organizations.

WSA and its contractors will use the following Procedures in the event that human remains are discovered during construction of the Bayside Community Sewer Project:

- The Contractor will immediately notify the Executive Director of an unanticipated discovery.
- The Executive Director will direct a *Stop Work* order to the Contractor's Site Foreman to flag or fence off the archaeological discovery location and direct the Contractor to take measures to ensure site security. Any discovery made on a weekend or overnight hours will be protected until all appropriate parties are notified of the discovery. The Contractor will not restart work in the area of the find until the Executive Director has granted clearance.
- The Executive Director will indicate the location and date of the discovery on the project plans and notify WSA and EPA.
- At all times human remains must be treated with the utmost dignity and respect. Human remains and/or associated artifacts will be left in place and not disturbed. No skeletal remains or materials associated with the remains will be collected or removed until appropriate consultation has taken place and a plan of action has been developed.
- WSA will immediately notify EPA, NITHPO and SHPO of the find, as well as the Archaeologist, the local police, and the Rhode Island State Medical Examiner's Office.
- WSA will provide an opportunity for local law enforcement and, if necessary, a representative of the chief Medical Examiner's Office, to visit and inspect the site to determine whether the site constitutes a crime scene.
- If it is declared a criminal matter, the Archaeologist will have no further involvement and the decision to declare it a *Cleared Site* for construction will be made by the appropriate legal authorities.
- If the find is determined not to be a criminal matter, WSA will comprehensively evaluate the potential to avoid and/or minimize the Project's effects on the human remains. If no

feasible avoidance plan can be developed to allow the human remains to stay in place, WSA and the Archaeologist will develop a site-specific relocation plan.

- If human remains are determined to be Native American, the remains will be left in place and protected from further disturbance until a site-specific work plan for their avoidance or removal can be generated. Please note that avoidance is the preferred choice of the SHPO and NITHPO. The Archaeologist will contact the SHPO and NITHPO to develop a plan of action that is consistent with the Native American Graves Protection and Repatriation Act (NAGPRA) guidance and applicable Rhode Island laws.
- If human remains are determined to be non-Native American, the remains will be left in place and protected from further disturbance until a site-specific work plan for their avoidance or removal can be generated. Please note that avoidance is the preferred choice of the SHPO. Consultation with the SHPO and other appropriate parties will be required to determine a plan of action.

Provisions for Site Security

Provisions must be made to secure any area containing, or suspected of containing, human remains from unauthorized entry to the site. If field assessment of human remains or related excavations cannot be completed before the end of a work day, fencing with a locked gate will be erected around the burial location to prevent unauthorized entry.

If relocation is necessary, temporary work shelters will be erected over individual (or small groups of) graves while they are in the process of being excavated and their remains removed. The shelters will permit adequate interior work space, but will prevent any outside persons from viewing the remains or the relocation process. The shelters will also permit the relocation team to work in most if not all weather conditions.

Public Outreach

Due to the sensitive nature of the potential remains it is assumed that WSA will assume all responsibility and authority for making public notifications of the work being conducted. It is also assumed, as part of this work plan, that the archaeologist will be requested by WSA to provide information on the progress of the investigation for the purposes of public notification and/or attend press conferences or field meetings for that purpose. All public outreach conducted as part of the relocation project will be performed at the request and direction of WSA.

FEDERAL AGENCY CONTACTS

EPA - New England Region 1
5 Post Office Square, Suite 100
Mail Code OEP06-3

Contact: Michael Stover, PE
Indian Program Manager
Tel: (617) 918-1123
Email: stover.michael@EPA.gov

MEDICAL EXAMINER AND POLICE CONTACTS

Rhode Island

Rhode Island Office of the Chief Medical Examiner

48 Orms Street

Providence, Rhode Island 02904

Contact: Alexander Chirkov, MD Medical Examiner

Tel: (401) 222-5500

State Police

Appropriate State Police Barracks

Contact: Tel: 911

STATE HISTORIC PRESERVATION OFFICE CONTACTS

Rhode Island Historical Preservation & Heritage Commission

Old State House

150 Benefit Street

Providence, Rhode Island 02903

Contact: Timothy Ives, Archaeologist

Tel: (401) 222-4139

Email: timothy.ives@preservation.ri.gov

Charlotte Taylor, Archaeologist

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Email: charlotte.taylor@preservation.ri.gov

FEDERALLY RECOGNIZED TRIBAL CONTACTS

Narragansett Indian Tribe

Narragansett Indian Longhouse

4425D South County Trail

Charlestown, Rhode Island 02813

Contact: John Brown, III, Tribal Historic Preservation Officer

Tel: (401) 539-1190

Email: jb@nithpo.com

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